

## REMARKS

### **1.     *Informalities***

Claims 13-17 were added. Each of these claims has proper support in the specification and do not comprise new matter.

Claims 2 and 3 were cancelled.

### **2.     *Claim Rejections - 35 U.S.C. § 112***

Claims 1-3 and 9-12 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, claim 1 stands rejected for reciting elements lacking antecedent basis. In response, Applicant has amended claim 1 to adopt several suggestions by the Examiner and to amend it to be in conformity with § 112.

Claims 2 and 10 stand rejected containing confusing subject matter and for lacking antecedent basis. In response, Applicant has amended these claims to indicate that the method is directed to a dosage requirement and not that some type of packaging is to limit a particular dosage requirement.

Claims 3 and 11 stand rejected because the phrase "before a meal" is confusing. In response, Applicant has amended claims 3 and 11 to indicate that consumption should take place on an empty stomach.

Claim 9 stands rejected for lack of antecedent basis. In response, Applicant has amended claim 9 to provide antecedent basis and to recite language similar to that suggested by the Examiner to correct the confusing nature of the claim.

Claim 12 stands rejected for a term lacking proper support in the specification. In response, Applicant has amended claim 12 to more succinctly describe and claim what is intended, with the amendments having proper support in the Specification.

**2. Claim Rejections - - 35 U.S.C. § 102**

Claims 1-4 and 9-11 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Hirazumi et al. (1999).

In response, Applicant has amended claims 1 and 9 to recite language directed to a specific concentration of *Morinda citrifolia* fruit juice. In addition, claims 1 and 9 were amended to recite that the *Morinda citrifolia* juice is "processed."

First, claims 1 and 9 were amended to recite a specific concentration of *Morinda citrifolia*, namely between 10 and 100 percent by weight of a dietary supplement. Such a limitation is not found in the Hirazumi reference. Indeed, Hirazumi does not disclose that the Noni juice may comprise a give concentration. As this limitation is not found in the prior art, Hirazumi cannot be said to anticipate claims 1 and 9 of the present invention.

Second, providing "processed" *Morinda citrifolia* fruit juice is not found in Hirazumi. Indeed, the present invention relies on the specific processing procedures used to create a unique finished *Morinda citrifolia* product. Hirazumi specifically makes reference to a fruit juice that is not processed by stating, "Noni fruits were allowed to ripen and age until the juice seeped out of the fruit..." As such, the specific recitation in the present invention that the *Morinda citrifolia* is processed renders the claims patentable over the Hirazumi reference under Section 102(b). Stated differently, Hirazumi does not anticipate claims 1 and 9 of the present invention in light of the reference to a processed fruit juice specifically recited in claims 1 and 9.

Moreover, claim 1 was amended to recite that the method of consuming the *Morinda citrifolia* effectively inhibits, prevents, and reverses lipid peroxidation. This is not found in the Hirazumi reference.

Claims 10-11 place further limitations on otherwise allowable subject matter as contained in base claims 1 and 9, thus Applicant submits that Hirazumi does not anticipate claims 10-11.

**3. Claim Rejections - - 35 U.S.C. § 103**

Claims 1-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hirazumi. Applicant appreciates the concerns raised by the Examiner, but respectfully submits that in light of the amendment to the claims as set forth above and the arguments presented below, Hirazumi does not render the claims of the present invention obvious.

Specifically, Applicant submits that one ordinarily skilled in the art would not look to Hirazumi to arrive at the claims as amended. Claims 1 and 9 were amended to recite a specific concentration of *Morinda citrifolia*. This specific concentration is not found or taught or suggested in Hirazumi and is important in the present invention because the effects that the *Morinda citrifolia* has within the human body to inhibit, prevent, and reverse either lipid peroxidation, cell membrane disruption, or protein oxidation, is dose-dependent, meaning that the *Morinda citrifolia* is present in concentrated form, thus increasing the overall anti-oxidant potential of the *Morinda citrifolia*.

In addition, there is no suggestion in Hirazumi, either explicitly or implicitly, that the Noni juice disclosed therein is processed to perform the specific steps of inhibiting, preventing, or reversing lipid peroxidation, cell membrane disruption, or protein oxidation as specifically recited in the claims, including those added. As such, one ordinarily skilled in the art would not turn to Hirazumi to arrive at the method of the present invention.

Regarding claims 5-6, these claims are dependent upon base claim 1, which has been amended to recite specific limitations as to the concentration of *Morinda citrifolia*. There is nothing in Hirazumi that teaches or suggests that this particular process is used. Indeed, Hirazumi teaches away from the present invention in that only the fruit juice obtained directly from the fruit, without additional processing, is disclosed. There is nothing to suggest that various concentrations may be obtained, which concentrations are made possible through the processing techniques employed and disclosed in the present invention.

Regarding claim 7, Applicant submits that Hirazumi does not teach nor disclose combining processed *Morinda citrifolia* with one of the claimed ingredients, and as such does not render claim 7 obvious.

### CONCLUSION


Based on the foregoing, Applicant respectfully submits that the deficiencies in the application have been corrected and that the proposed claims are neither anticipated nor rendered obvious by the prior art reference cited by the Examiner. As such, Applicant believes that the claims are now in a condition for allowance, and action to that end is respectfully requested.

If any impediments to the allowance of this application for patent remain after the above amendments and remarks are entered, the Examiner is invited to initiate a telephone conference with the undersigned attorney of record.

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Respectfully Submitted,

**KIRTON & McCONKIE**

  
Michael F. Krieger  
Attorney for Applicant  
Registration No. 35,232  
KIRTON & McCONKIE  
1800 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, UT 84111  
(801) 328-3600

VERSION WITH MARKINGS SHOWING CHANGES MADE

1. A method for reducing cellular damage, the inhibiting, preventing, and reversing lipid peroxidation, said method comprising the step for providing of:  
consuming on an empty stomach each day more than one fluid ounce of a processed *Morinda citrifolia* fruit juice beverage, the *Morinda citrifolia* being present in an amount between about 10 and 100 percent by weight. of a dietary supplement for consumption to reduce cellular damage, wherein the dietary supplement includes juice from fruit of a *Morinda citrifolia*.
2. A ~~2.~~ The method as recited in claim 1, further comprising the step for providing a recommended use of the dietary supplement, wherein the recommended use wherein said step of consuming includes one of:
  - (i) ~~consuming one fluid ounce of the dietary supplement~~ said processed *Morinda citrifolia* per day;
  - (ii) ~~consuming more than one fluid ounce of the dietary supplement~~ said processed *Morinda citrifolia* per day; and
  - (iii) ~~consuming less than one fluid ounce of the dietary supplement~~ said processed *Morinda citrifolia* per day.
3. ~~A~~ The method as recited in claim 2, wherein the recommended use said step of consuming further includes consuming the dietary supplement before a meal. said processed *Morinda citrifolia* on an empty stomach.

4. A ~~4.~~ The method as recited in claim 1, wherein the step for providing includes the steps for: said

processed *Morinda citrifolia* is produced according to processing steps of:

harvesting the fruit from ~~the~~ a *Morinda citrifolia* plant;

preparing ~~the~~ said harvested fruit for processing;

processing ~~the~~ said prepared fruit to obtain the dietary supplement; and said processed

*Morinda citrifolia*; and

packaging the dietary supplement: packaging said processed *Morinda citrifolia*.

5. A ~~5.~~ The method as recited in claim 4, wherein ~~the~~ said fruit is harvested when it is at least one  
inch long and up to twelve inches in diameter.

6. A method as recited in claim 4, wherein ~~the~~ said step for preparing ~~the~~ said harvested fruit  
includes at least one of the steps ~~for~~ of:

- (i) cleaning ~~the~~ said harvested fruit;
- (ii) allowing ~~the~~ said harvested fruit to ripen;
- (iii) eliminating spoiled fruit from ~~the~~ said harvested fruit; and
- (iv) placing ~~the~~ said harvested fruit in one or more plastic lined containers.

7. A ~~The~~ The method as recited in claim 4, wherein the step for processing ~~the~~ said prepared fruit  
includes the steps for:

separating the juice of ~~the~~ said harvested fruit from at least one of:

- (i) seeds of ~~the~~ said harvested fruit;
- (ii) peel of ~~the~~ said harvested fruit; and

(iii) pulp of ~~the~~ said harvested fruit;

mixing ~~the~~ said juice of ~~the~~ said harvested fruit with at least one of:

(i) a flavoring;

(ii) a sweetener;

(iii) a nutritional ingredient;

(iv) a botanical extract; and

(v) a coloring; and

heating ~~the dietary supplement~~ said processed *Morinda citrifolia* to a temperature of at least 181°F.



8. A method as recited in claim 4, wherein the step for packaging ~~the dietary supplement~~ said processed *Morinda citrifolia* includes the step for packaging ~~the dietary supplement~~ said processed *Morinda citrifolia* into a container that comprises at least one of:

- (i) glass; and
- (ii) plastic.

9. A method for scavenging lipid hydroperoxides and superoxide anion free radicals within a human body, ~~the said~~ method comprising the steps ~~for~~ of:
- ~~providing a dietary supplement for consumption to perform the scavenging of lipid hydroperoxides and superoxide anion free radicals within the body, wherein the dietary supplement includes juice from fruit of a Morinda citrifolia; and~~
- ~~providing a recommended use of the~~ consuming processed Morinda citrifolia fruit juice present in an amount between about 10 and 100 percent by weight of a dietary supplement.
10. A ~~The~~ method as recited in claim 9, wherein ~~the recommended use~~ said step of consuming said processed Morinda citrifolia includes one of:
- (i) consuming one fluid ounce of ~~the dietary supplement~~ said processed Morinda citrifolia per day;
  - (ii) consuming more than one fluid ounce of ~~the dietary supplement~~ said processed Morinda citrifolia per day; and
  - (iii) consuming less than one fluid ounce of ~~the dietary supplement~~ said processed Morinda citrifolia per day.
11. A ~~The~~ method as recited in claim 10, ~~wherein the recommended use further includes consuming the dietary supplement before a meal.~~ further including consuming said processed Morinda citrifolia on an empty stomach.

~~12.~~ A 12.     The method as recited in claim 9, wherein the dietary supplement provided said processed *Morinda citrifolia* includes reconstituted *Morinda citrifolia* fruit juice from pure juice puree of French Polynesia puree fruit juice.

13.     The method of claim 1, further comprising the step of:  
consuming an additional supplement together with said processed *Morinda citrifolia*.

14.     The method of claim 1, wherein said processed *Morinda citrifolia* further comprises an additional supplement that works in conjunction with said dietary supplement to inhibit, prevent, and reverse lipid peroxidation.

15.     The method of claim 1, wherein said processed *Morinda citrifolia* produces dose-dependent effects.

16.     A method for inhibiting, preventing, and reversing cell membrane disruption, said method comprising the step of:  
consuming processed *Morinda citrifolia* fruit juice present in an amount between about 10 and 100 percent by weight of a dietary supplement.

17.     A method for inhibiting, preventing, and reversing protein oxidation, said method comprising the step of:  
consuming processed *Morinda citrifolia* fruit juice present in an amount between about 10 and 100 percent by weight of a dietary supplement.